

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4108 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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HEIR OF CHAMPAKLAL P PARIKH HASMUKH H PARIKH

Versus

SPL.OFFICER-IN-CHARGE,PVT FOREST ACQUISITION DEPT.&  
ORS.

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Appearance:

MR SG UPPAL for Petitioners  
MR VB GHARANIA for Respondent No. 1  
None present for Respondent No.2 to 5

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 05/12/96

ORAL JUDGMENT

Heard learned counsel for the parties.

2. The petitioner since deceased, now represented by his legal heirs filed this writ petition before this Court and prayer has been made that the respondents be directed to make the petitioner as necessary party in the

compensation application pending before the Special Officer In Charge at Baroda.

3. The facts which are necessary for disposal of this Special Civil Application are to be taken briefly. In the year 1972, the Gujarat Private Forest Act, 1972 was enacted and came into force in the State of Gujarat. In the said Act adequate provisions for compensation to the owners of such forests so acquired has been made. The legal representative of the then Maharaja of Rajpipla who were holding all the private forests sought to be acquired under the provisions of this Act, filed an application for compensation before the Collector, Rajpipla. Later on those proceedings were transferred to the Special Officer In Charge, Baroda. In those proceedings in the year 1980, the petitioner made an application for the purpose of joining them as party to the said proceedings. This application was rejected by the Collector, Rajpipla on the ground of delay and an appeal has been preferred before the Gujarat Revenue Tribunal, which was also dismissed on 26.4.84. Thereafter the petitioner filed a fresh application before the Collector, Rajpipla on 27.4.84, asking inter alia the Collector to make the petitioner necessary party to the proceedings. The Collector has informed the petitioner that now he may approach to the Special Officer In Charge, Baroda, for this purpose. The petitioner then submitted a fresh application before the Special Officer In Charge, Baroda, but no response or reply has been furnished to the petitioner so far and hence this Special Civil Application.

3. The learned counsel for the petitioner contended that the petitioners were given the forest in question on contract in the year 1945 by the then Maharaja of Rajpipla for consideration of the conditional sale. The consideration was of Rs.50,000/- and as such, they are entitled for compensation on acquisition of the said forest. The learned counsel for the petitioner contended that in the year 1945 sale agreement was entered into between the petitioner and the then Maharaja of Rajpipla. A copy of the sale deed has also been produced as annexure 'A'. In view of this, the learned counsel for the petitioner contended that the petitioners are necessary party in the compensation case and the only party entitled for compensation.

4. I have given my thoughtful considerations to the submissions made by the learned counsel for the petitioner.

5. A question has been put to the learned counsel for the petitioner by the Court whether the petitioner has any other material or evidence or document other than the alleged agreement to sale or sale deed, to show that any contract has been given and they have been put in possession and they have used the forest. To this question the learned counsel for the petitioners admitted that the petitioner has no other document except the alleged agreement to sale or sale deed. It is not in dispute that the said document is only an unregistered document and in absence of any further supporting evidence it is difficult to accept the said document in favour of the petitioner. Otherwise also the Maharaja of Rajpipla filed an application for compensation, meaning thereby that he has not accepted the claim of the petitioner. Only on the basis of such document it is difficult to accept the claim of the petitioner more so when the grantee himself is not accepting it. At the most it may be a dispute in between the Maharaja and the petitioner, but on the basis of this document the petitioner cannot be treated and rightly so was not treated by the authority, as necessary party to the compensation proceedings. Yet there is another reason for which this Special Civil Application deserves to be dismissed. It is admitted case of the petitioner that earlier the application filed by them for impleading them as necessary party has been rejected by the Collector and that order has been confirmed by the Gujarat Revenue Tribunal. The petitioner has not challenged that order before this Court and as such it has attained finality. Once the matter has been decided finally against the petitioner by the authorities, then it is not open to the petitioner to file fresh application. The order of the Tribunal has been filed by the petitioner wherefrom it is clear that one of the petitioners has not filed the application. Now if that is the point, how it is open to the petitioner to file a fresh application. Last but not least, the petitioner has made an attempt by this Special Civil Application to take decision in his favour by canvassing that they are the persons who are entitled to compensation for acquisition of private forest behind the back of Maharaja of Rajpipla. The Maharaja of Rajpipla is a necessary party to this petition and the petitioner has not impleaded him as party. No order whatsoever in favour of the petitioner which may adversely affect the right of Maharaja of Rajpipla can be made by this Court in this Special Civil Application.

6. Taking into consideration the totality of the facts of the case, I do not find any substance in this case and the same is therefore dismissed. Rule

discharged. No order as to costs.

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(sunil)